

BEER AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: John Knotwell

LONG TITLE

General Description:

This bill modifies and enacts provisions related to beer.

Highlighted Provisions:

This bill:

- ▶ modifies the permissible percentage of alcohol in beer and heavy beer;
- ▶ creates the Beer Availability Workgroup, staffed by the Department of Alcoholic

Beverage Control, to study issues related to beer availability, alcohol content, and retail practices;

- ▶ requires the Beer Availability Workgroup to provide two annual reports to the Legislative Management Committee and the Business and Labor Interim

Committee;

- ▶ increases the rate of the tax imposed on beer and directs the resulting revenue to the Alcoholic Beverage Enforcement and Treatment Restricted Account; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313

30 **59-15-101**, as last amended by Laws of Utah 2010, Chapter 276
 31 **59-15-109**, as last amended by Laws of Utah 2013, Chapter 310
 32 **63I-2-232**, as last amended by Laws of Utah 2018, Chapters 249 and 313

33 ENACTS:

34 **32B-2-211.1**, Utah Code Annotated 1953

35 **Utah Code Sections Affected by Coordination Clause:**

36 **32B-1-102**, as last amended by Laws of Utah 2018, Chapters 249 and 313



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **32B-1-102** is amended to read:

40 **32B-1-102. Definitions.**

41 As used in this title:

42 (1) "Airport lounge" means a business location:

43 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

44 (b) that is located at an international airport with a United States Customs office on the
45 premises of the international airport.

46 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

47 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

48 (3) "Alcoholic beverage" means the following:

49 (a) beer; or

50 (b) liquor.

51 (4) (a) "Alcoholic product" means a product that:

52 (i) contains at least .5% of alcohol by volume; and

53 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

54 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
55 in an amount equal to or greater than .5% of alcohol by volume.

56 (b) "Alcoholic product" includes an alcoholic beverage.

57 (c) "Alcoholic product" does not include any of the following common items that

58 otherwise come within the definition of an alcoholic product:

59 (i) except as provided in Subsection (4)(d), an extract;

60 (ii) vinegar;

61 (iii) preserved nonintoxicating cider;

62 (iv) essence;

63 (v) tincture;

64 (vi) food preparation; or

65 (vii) an over-the-counter medicine.

66 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation

67 when it is used as a flavoring in the manufacturing of an alcoholic product.

68 (5) "Alcohol training and education seminar" means a seminar that is:

69 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

70 (b) described in Section [62A-15-401](#).

71 (6) "Banquet" means an event:

72 (a) that is held at one or more designated locations approved by the commission in or

73 on the premises of a:

74 (i) hotel;

75 (ii) resort facility;

76 (iii) sports center; or

77 (iv) convention center;

78 (b) for which there is a contract:

79 (i) between a person operating a facility listed in Subsection (6)(a) and another person;

80 and

81 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to

82 provide an alcoholic product at the event; and

83 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.

84 (7) "Bar structure" means a surface or structure on a licensed premises if on or at any

85 place of the surface or structure an alcoholic product is:

- 86 (a) stored; or
- 87 (b) dispensed.
- 88 (8) (a) "Bar establishment license" means a license issued in accordance with Chapter
- 89 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 90 (b) "Bar establishment license" includes:
- 91 (i) a dining club license;
- 92 (ii) an equity license;
- 93 (iii) a fraternal license; or
- 94 (iv) a bar license.
- 95 (9) "Bar license" means a license issued in accordance with Chapter 5, Retail License
- 96 Act, and Chapter 6, Part 4, Bar Establishment License.
- 97 (10) (a) Subject to Subsection (10)(d), "beer" means a product that:
- 98 (i) contains at least .5% of alcohol by volume, but not more than [~~4%~~] 5% of alcohol
- 99 by volume or [~~3.2%~~] 4% by weight; and
- 100 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 101 (b) "Beer" may or may not contain hops or other vegetable products.
- 102 (c) "Beer" includes a product that:
- 103 (i) contains alcohol in the percentages described in Subsection (10)(a); and
- 104 (ii) is referred to as:
- 105 (A) beer;
- 106 (B) ale;
- 107 (C) porter;
- 108 (D) stout;
- 109 (E) lager; or
- 110 (F) a malt or malted beverage.
- 111 (d) "Beer" does not include a flavored malt beverage.
- 112 (11) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 113 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

- 114 (12) "Beer retailer" means a business that:
- 115 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 116 for consumption on or off the business premises; and
- 117 (b) is licensed as:
- 118 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 119 Retailer Local Authority; or
- 120 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 121 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 122 (13) "Beer wholesaling license" means a license:
- 123 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 124 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 125 retail licensees or off-premise beer retailers.
- 126 (14) "Billboard" means a public display used to advertise, including:
- 127 (a) a light device;
- 128 (b) a painting;
- 129 (c) a drawing;
- 130 (d) a poster;
- 131 (e) a sign;
- 132 (f) a signboard; or
- 133 (g) a scoreboard.
- 134 (15) "Brewer" means a person engaged in manufacturing:
- 135 (a) beer;
- 136 (b) heavy beer; or
- 137 (c) a flavored malt beverage.
- 138 (16) "Brewery manufacturing license" means a license issued in accordance with
- 139 Chapter 11, Part 5, Brewery Manufacturing License.
- 140 (17) "Certificate of approval" means a certificate of approval obtained from the
- 141 department under Section [32B-11-201](#).

142 (18) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
143 a bus company to a group of persons pursuant to a common purpose:

- 144 (a) under a single contract;
- 145 (b) at a fixed charge in accordance with the bus company's tariff; and
- 146 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
147 motor vehicle, and a driver to travel together to one or more specified destinations.

148 (19) "Church" means a building:

- 149 (a) set apart for worship;
- 150 (b) in which religious services are held;
- 151 (c) with which clergy is associated; and
- 152 (d) that is tax exempt under the laws of this state.

153 (20) "Commission" means the Alcoholic Beverage Control Commission created in
154 Section [32B-2-201](#).

155 (21) "Commissioner" means a member of the commission.

156 (22) "Community location" means:

- 157 (a) a public or private school;
- 158 (b) a church;
- 159 (c) a public library;
- 160 (d) a public playground; or
- 161 (e) a public park.

162 (23) "Community location governing authority" means:

- 163 (a) the governing body of the community location; or
- 164 (b) if the commission does not know who is the governing body of a community
165 location, a person who appears to the commission to have been given on behalf of the
166 community location the authority to prohibit an activity at the community location.

167 (24) "Container" means a receptacle that contains an alcoholic product, including:

- 168 (a) a bottle;
- 169 (b) a vessel; or

- 170 (c) a similar item.
- 171 (25) "Convention center" means a facility that is:
 - 172 (a) in total at least 30,000 square feet; and
 - 173 (b) otherwise defined as a "convention center" by the commission by rule.
- 174 (26) (a) "Counter" means a surface or structure in a dining area of a licensed premises
175 where seating is provided to a patron for service of food.
 - 176 (b) "Counter" does not include a dispensing structure.
- 177 (27) "Department" means the Department of Alcoholic Beverage Control created in
178 Section [32B-2-203](#).
- 179 (28) "Department compliance officer" means an individual who is:
 - 180 (a) an auditor or inspector; and
 - 181 (b) employed by the department.
- 182 (29) "Department sample" means liquor that is placed in the possession of the
183 department for testing, analysis, and sampling.
- 184 (30) "Dining club license" means a license issued in accordance with Chapter 5, Retail
185 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
186 commission as a dining club license.
- 187 (31) "Director," unless the context requires otherwise, means the director of the
188 department.
- 189 (32) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
190 title:
 - 191 (a) against a person subject to administrative action; and
 - 192 (b) that is brought on the basis of a violation of this title.
- 193 (33) (a) Subject to Subsection (33)(b), "dispense" means:
 - 194 (i) drawing an alcoholic product; and
 - 195 (ii) using the alcoholic product at the location from which it was drawn to mix or
196 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 197 (b) The definition of "dispense" in this Subsection (33) applies only to:

- 198 (i) a full-service restaurant license;
- 199 (ii) a limited-service restaurant license;
- 200 (iii) a reception center license; and
- 201 (iv) a beer-only restaurant license.
- 202 (34) "Dispensing structure" means a surface or structure on a licensed premises:
- 203 (a) where an alcoholic product is dispensed; or
- 204 (b) from which an alcoholic product is served.
- 205 (35) "Distillery manufacturing license" means a license issued in accordance with
- 206 Chapter 11, Part 4, Distillery Manufacturing License.
- 207 (36) "Distressed merchandise" means an alcoholic product in the possession of the
- 208 department that is saleable, but for some reason is unappealing to the public.
- 209 (37) "Educational facility" includes:
- 210 (a) a nursery school;
- 211 (b) an infant day care center; and
- 212 (c) a trade and technical school.
- 213 (38) "Equity license" means a license issued in accordance with Chapter 5, Retail
- 214 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 215 commission as an equity license.
- 216 (39) "Event permit" means:
- 217 (a) a single event permit; or
- 218 (b) a temporary beer event permit.
- 219 (40) "Exempt license" means a license exempt under Section [32B-1-201](#) from being
- 220 considered in determining the total number of retail licenses that the commission may issue at
- 221 any time.
- 222 (41) (a) "Flavored malt beverage" means a beverage:
- 223 (i) that contains at least .5% alcohol by volume;
- 224 (ii) that is treated by processing, filtration, or another method of manufacture that is not
- 225 generally recognized as a traditional process in the production of a beer as described in 27

- 226 C.F.R. Sec. 25.55;
- 227 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
228 extract; and
- 229 (iv) (A) for which the producer is required to file a formula for approval with the
230 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
231 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- 232 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- 233 (42) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
234 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
235 commission as a fraternal license.
- 236 (43) "Full-service restaurant license" means a license issued in accordance with
237 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 238 (44) (a) "Furnish" means by any means to provide with, supply, or give an individual
239 an alcoholic product, by sale or otherwise.
- 240 (b) "Furnish" includes to:
- 241 (i) serve;
- 242 (ii) deliver; or
- 243 (iii) otherwise make available.
- 244 (45) "Guest" means an individual who meets the requirements of Subsection
245 [32B-6-407\(9\)](#).
- 246 (46) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- 247 (47) "Health care practitioner" means:
- 248 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 249 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 250 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 251 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
252 Act;
- 253 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,

254 Nurse Practice Act;

255 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
256 Practice Act;

257 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
258 Therapy Practice Act;

259 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

260 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
261 Professional Practice Act;

262 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

263 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
264 Practice Act;

265 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
266 Hygienist Practice Act; and

267 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

268 (48) (a) "Heavy beer" means a product that:

269 (i) contains more than [~~4%~~] 5% alcohol by volume; and

270 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

271 (b) "Heavy beer" is considered liquor for the purposes of this title.

272 (49) "Hotel" is as defined by the commission by rule.

273 (50) "Hotel license" means a license issued in accordance with Chapter 5, Retail
274 License Act, and Chapter 8b, Hotel License Act.

275 (51) "Identification card" means an identification card issued under Title 53, Chapter 3,
276 Part 8, Identification Card Act.

277 (52) "Industry representative" means an individual who is compensated by salary,
278 commission, or other means for representing and selling an alcoholic product of a
279 manufacturer, supplier, or importer of liquor.

280 (53) "Industry representative sample" means liquor that is placed in the possession of
281 the department for testing, analysis, and sampling by a local industry representative on the

282 premises of the department to educate the local industry representative of the quality and
283 characteristics of the product.

284 (54) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
285 of an alcoholic product is prohibited by:

- 286 (a) law; or
- 287 (b) court order.

288 (55) "Intoxicated" means that a person:

289 (a) is significantly impaired as to the person's mental or physical functions as a result of
290 the use of:

- 291 (i) an alcoholic product;
- 292 (ii) a controlled substance;
- 293 (iii) a substance having the property of releasing toxic vapors; or
- 294 (iv) a combination of Subsections (55)(a)(i) through (iii); and
- 295 (b) exhibits plain and easily observed outward manifestations of behavior or physical
296 signs produced by the overconsumption of an alcoholic product.

297 (56) "Investigator" means an individual who is:

- 298 (a) a department compliance officer; or
- 299 (b) a nondepartment enforcement officer.

300 (57) "Invitee" means the same as that term is defined in Section [32B-8-102](#).

301 (58) "License" means:

- 302 (a) a retail license;
- 303 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
304 Licenses Act;
- 305 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

306 or

307 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

308 (59) "Licensee" means a person who holds a license.

309 (60) "Limited-service restaurant license" means a license issued in accordance with

310 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

311 (61) "Limousine" means a motor vehicle licensed by the state or a local authority, other
312 than a bus or taxicab:

313 (a) in which the driver and a passenger are separated by a partition, glass, or other
314 barrier;

315 (b) that is provided by a business entity to one or more individuals at a fixed charge in
316 accordance with the business entity's tariff; and

317 (c) to give the one or more individuals the exclusive use of the limousine and a driver
318 to travel to one or more specified destinations.

319 (62) (a) (i) "Liquor" means a liquid that:

320 (A) is:

321 (I) alcohol;

322 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

323 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

324 (IV) other drink or drinkable liquid; and

325 (B) (I) contains at least .5% alcohol by volume; and

326 (II) is suitable to use for beverage purposes.

327 (ii) "Liquor" includes:

328 (A) heavy beer;

329 (B) wine; and

330 (C) a flavored malt beverage.

331 (b) "Liquor" does not include beer.

332 (63) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).

333 (64) "Liquor warehousing license" means a license that is issued:

334 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

335 (b) to a person, other than a licensed manufacturer, who engages in the importation for
336 storage, sale, or distribution of liquor regardless of amount.

337 (65) "Local authority" means:

338 (a) for premises that are located in an unincorporated area of a county, the governing
339 body of a county; or

340 (b) for premises that are located in an incorporated city, town, or metro township, the
341 governing body of the city, town, or metro township.

342 (66) "Lounge or bar area" is as defined by rule made by the commission.

343 (67) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
344 otherwise make an alcoholic product for personal use or for sale or distribution to others.

345 (68) "Member" means an individual who, after paying regular dues, has full privileges
346 in an equity licensee or fraternal licensee.

347 (69) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
348 or homeport facility for a ship:

349 (i) (A) under the control of the United States Department of Defense; or

350 (B) of the National Guard;

351 (ii) that is located within the state; and

352 (iii) including a leased facility.

353 (b) "Military installation" does not include a facility used primarily for:

354 (i) civil works;

355 (ii) a rivers and harbors project; or

356 (iii) a flood control project.

357 (70) "Minor" means an individual under the age of 21 years.

358 (71) "Nondepartment enforcement agency" means an agency that:

359 (a) (i) is a state agency other than the department; or

360 (ii) is an agency of a county, city, town, or metro township; and

361 (b) has a responsibility to enforce one or more provisions of this title.

362 (72) "Nondepartment enforcement officer" means an individual who is:

363 (a) a peace officer, examiner, or investigator; and

364 (b) employed by a nondepartment enforcement agency.

365 (73) (a) "Off-premise beer retailer" means a beer retailer who is:

366 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
367 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
368 premises.

369 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

370 (74) "Off-premise beer retailer state license" means a state license issued in accordance
371 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

372 (75) "On-premise banquet license" means a license issued in accordance with Chapter
373 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

374 (76) "On-premise beer retailer" means a beer retailer who is:

375 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
376 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
377 Retailer License; and

378 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
379 premises:

380 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
381 premises; and

382 (ii) on and after March 1, 2012, operating:

383 (A) as a tavern; or

384 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).

385 (77) "Opaque" means impenetrable to sight.

386 (78) "Package agency" means a retail liquor location operated:

387 (a) under an agreement with the department; and

388 (b) by a person:

389 (i) other than the state; and

390 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
391 Agency, to sell packaged liquor for consumption off the premises of the package agency.

392 (79) "Package agent" means a person who holds a package agency.

393 (80) "Patron" means an individual to whom food, beverages, or services are sold,

394 offered for sale, or furnished, or who consumes an alcoholic product including:

- 395 (a) a customer;
- 396 (b) a member;
- 397 (c) a guest;
- 398 (d) an attendee of a banquet or event;
- 399 (e) an individual who receives room service;
- 400 (f) a resident of a resort;
- 401 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);

402 or

403 (h) an invitee.
404 (81) "Permittee" means a person issued a permit under:

- 405 (a) Chapter 9, Event Permit Act; or
- 406 (b) Chapter 10, Special Use Permit Act.

407 (82) "Person subject to administrative action" means:

- 408 (a) a licensee;
- 409 (b) a permittee;
- 410 (c) a manufacturer;
- 411 (d) a supplier;
- 412 (e) an importer;
- 413 (f) one of the following holding a certificate of approval:
 - 414 (i) an out-of-state brewer;
 - 415 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 416 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 417 (g) staff of:
 - 418 (i) a person listed in Subsections (82)(a) through (f); or
 - 419 (ii) a package agent.

420 (83) "Premises" means a building, enclosure, or room used in connection with the
421 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,

422 unless otherwise defined in this title or rules made by the commission.

423 (84) "Prescription" means an order issued by a health care practitioner when:

424 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
425 to prescribe a controlled substance, other drug, or device for medicinal purposes;

426 (b) the order is made in the course of that health care practitioner's professional
427 practice; and

428 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

429 (85) (a) "Private event" means a specific social, business, or recreational event:

430 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
431 group; and

432 (ii) that is limited in attendance to people who are specifically designated and their
433 guests.

434 (b) "Private event" does not include an event to which the general public is invited,
435 whether for an admission fee or not.

436 (86) (a) "Proof of age" means:

437 (i) an identification card;

438 (ii) an identification that:

439 (A) is substantially similar to an identification card;

440 (B) is issued in accordance with the laws of a state other than Utah in which the
441 identification is issued;

442 (C) includes date of birth; and

443 (D) has a picture affixed;

444 (iii) a valid driver license certificate that:

445 (A) includes date of birth;

446 (B) has a picture affixed; and

447 (C) is issued:

448 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

449 (II) in accordance with the laws of the state in which it is issued;

450 (iv) a military identification card that:

451 (A) includes date of birth; and

452 (B) has a picture affixed; or

453 (v) a valid passport.

454 (b) "Proof of age" does not include a driving privilege card issued in accordance with

455 Section [53-3-207](#).

456 (87) (a) "Public building" means a building or permanent structure that is:

457 (i) owned or leased by:

458 (A) the state; or

459 (B) a local government entity; and

460 (ii) used for:

461 (A) public education;

462 (B) transacting public business; or

463 (C) regularly conducting government activities.

464 (b) "Public building" does not include a building owned by the state or a local

465 government entity when the building is used by a person, in whole or in part, for a proprietary

466 function.

467 (88) "Public conveyance" means a conveyance that the public or a portion of the public

468 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or

469 other public conveyance.

470 (89) "Reception center" means a business that:

471 (a) operates facilities that are at least 5,000 square feet; and

472 (b) has as its primary purpose the leasing of the facilities described in Subsection

473 (89)(a) to a third party for the third party's event.

474 (90) "Reception center license" means a license issued in accordance with Chapter 5,

475 Retail License Act, and Chapter 6, Part 8, Reception Center License.

476 (91) (a) "Record" means information that is:

477 (i) inscribed on a tangible medium; or

478 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

479 (b) "Record" includes:

480 (i) a book;

481 (ii) a book of account;

482 (iii) a paper;

483 (iv) a contract;

484 (v) an agreement;

485 (vi) a document; or

486 (vii) a recording in any medium.

487 (92) "Residence" means a person's principal place of abode within Utah.

488 (93) "Resident," in relation to a resort, means the same as that term is defined in

489 Section [32B-8-102](#).

490 (94) "Resort" means the same as that term is defined in Section [32B-8-102](#).

491 (95) "Resort facility" is as defined by the commission by rule.

492 (96) "Resort license" means a license issued in accordance with Chapter 5, Retail

493 License Act, and Chapter 8, Resort License Act.

494 (97) "Responsible alcohol service plan" means a written set of policies and procedures
495 that outlines measures to prevent employees from:

496 (a) over-serving alcoholic beverages to customers;

497 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
498 intoxicated; and

499 (c) serving alcoholic beverages to minors.

500 (98) "Restaurant" means a business location:

501 (a) at which a variety of foods are prepared;

502 (b) at which complete meals are served; and

503 (c) that is engaged primarily in serving meals.

504 (99) "Retail license" means one of the following licenses issued under this title:

505 (a) a full-service restaurant license;

- 506 (b) a master full-service restaurant license;
- 507 (c) a limited-service restaurant license;
- 508 (d) a master limited-service restaurant license;
- 509 (e) a bar establishment license;
- 510 (f) an airport lounge license;
- 511 (g) an on-premise banquet license;
- 512 (h) an on-premise beer license;
- 513 (i) a reception center license;
- 514 (j) a beer-only restaurant license;
- 515 (k) a resort license; or
- 516 (l) a hotel license.

517 (100) "Room service" means furnishing an alcoholic product to a person in a guest
518 room of a:

- 519 (a) hotel; or
- 520 (b) resort facility.

521 (101) (a) "School" means a building used primarily for the general education of minors.

522 (b) "School" does not include an educational facility.

523 (102) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
524 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
525 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
526 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
527 made by the commission.

528 (103) "Serve" means to place an alcoholic product before an individual.

529 (104) "Sexually oriented entertainer" means a person who while in a state of
530 seminudity appears at or performs:

- 531 (a) for the entertainment of one or more patrons;
- 532 (b) on the premises of:
 - 533 (i) a bar licensee; or

- 534 (ii) a tavern;
- 535 (c) on behalf of or at the request of the licensee described in Subsection (104)(b);
- 536 (d) on a contractual or voluntary basis; and
- 537 (e) whether or not the person is designated as:
 - 538 (i) an employee;
 - 539 (ii) an independent contractor;
 - 540 (iii) an agent of the licensee; or
 - 541 (iv) a different type of classification.
- 542 (105) "Single event permit" means a permit issued in accordance with Chapter 9, Part
- 543 3, Single Event Permit.
- 544 (106) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 545 beer, heavy beer, and flavored malt beverages per year.
- 546 (107) "Special use permit" means a permit issued in accordance with Chapter 10,
- 547 Special Use Permit Act.
- 548 (108) (a) "Spirituous liquor" means liquor that is distilled.
- 549 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 550 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 551 (109) "Sports center" is as defined by the commission by rule.
- 552 (110) (a) "Staff" means an individual who engages in activity governed by this title:
 - 553 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
 - 554 holder;
 - 555 (ii) at the request of the business, including a package agent, licensee, permittee, or
 - 556 certificate holder; or
 - 557 (iii) under the authority of the business, including a package agent, licensee, permittee,
 - 558 or certificate holder.
- 559 (b) "Staff" includes:
 - 560 (i) an officer;
 - 561 (ii) a director;

- 562 (iii) an employee;
- 563 (iv) personnel management;
- 564 (v) an agent of the licensee, including a managing agent;
- 565 (vi) an operator; or
- 566 (vii) a representative.
- 567 (111) "State of nudity" means:
- 568 (a) the appearance of:
- 569 (i) the nipple or areola of a female human breast;
- 570 (ii) a human genital;
- 571 (iii) a human pubic area; or
- 572 (iv) a human anus; or
- 573 (b) a state of dress that fails to opaquely cover:
- 574 (i) the nipple or areola of a female human breast;
- 575 (ii) a human genital;
- 576 (iii) a human pubic area; or
- 577 (iv) a human anus.
- 578 (112) "State of seminudity" means a state of dress in which opaque clothing covers no
- 579 more than:
- 580 (a) the nipple and areola of the female human breast in a shape and color other than the
- 581 natural shape and color of the nipple and areola; and
- 582 (b) the human genitals, pubic area, and anus:
- 583 (i) with no less than the following at its widest point:
- 584 (A) four inches coverage width in the front of the human body; and
- 585 (B) five inches coverage width in the back of the human body; and
- 586 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 587 (113) (a) "State store" means a facility for the sale of packaged liquor:
- 588 (i) located on premises owned or leased by the state; and
- 589 (ii) operated by a state employee.

590 (b) "State store" does not include:

591 (i) a package agency;

592 (ii) a licensee; or

593 (iii) a permittee.

594 (114) (a) "Storage area" means an area on licensed premises where the licensee stores
595 an alcoholic product.

596 (b) "Store" means to place or maintain in a location an alcoholic product.

597 (115) "Sublicense" means the same as that term is defined in Section [32B-8-102](#) or
598 [32B-8b-102](#).

599 (116) "Supplier" means a person who sells an alcoholic product to the department.

600 (117) "Tavern" means an on-premise beer retailer who is:

601 (a) issued a license by the commission in accordance with Chapter 5, Retail License
602 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

603 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
604 On-Premise Beer Retailer License.

605 (118) "Temporary beer event permit" means a permit issued in accordance with
606 Chapter 9, Part 4, Temporary Beer Event Permit.

607 (119) "Temporary domicile" means the principal place of abode within Utah of a
608 person who does not have a present intention to continue residency within Utah permanently or
609 indefinitely.

610 (120) "Translucent" means a substance that allows light to pass through, but does not
611 allow an object or person to be seen through the substance.

612 (121) "Unsaleable liquor merchandise" means a container that:

613 (a) is unsaleable because the container is:

614 (i) unlabeled;

615 (ii) leaky;

616 (iii) damaged;

617 (iv) difficult to open; or

618 (v) partly filled;

619 (b) (i) has faded labels or defective caps or corks;

620 (ii) has contents that are:

621 (A) cloudy;

622 (B) spoiled; or

623 (C) chemically determined to be impure; or

624 (iii) contains:

625 (A) sediment; or

626 (B) a foreign substance; or

627 (c) is otherwise considered by the department as unfit for sale.

628 (122) (a) "Wine" means an alcoholic product obtained by the fermentation of the

629 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not

630 another ingredient is added.

631 (b) "Wine" includes:

632 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.

633 4.10; and

634 (ii) hard cider.

635 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided

636 in this title.

637 (123) "Winery manufacturing license" means a license issued in accordance with

638 Chapter 11, Part 3, Winery Manufacturing License.

639 Section 2. Section **32B-2-211.1** is enacted to read:

640 **32B-2-211.1. Beer Availability Workgroup.**

641 (1) There is created the Beer Availability Workgroup consisting of the following 11

642 members:

643 (a) two members of the Senate appointed by the president of the Senate;

644 (b) two members of the House of Representatives appointed by the speaker of the

645 House of Representatives;

646 (c) the state prevention program administrator within the Division of Substance Abuse
647 and Mental Health created in Section [62A-15-103](#);

648 (d) a representative of the Underage Drinking Prevention Workgroup of the Utah
649 Substance Use and Mental Health Advisory Council created in Section [63M-7-301](#), appointed
650 by the chair of the Utah Substance Use and Mental Health Advisory Council; and

651 (e) five members as follows, appointed jointly by the president of the Senate and the
652 speaker of the House of Representatives:

653 (i) an individual who represents local beer distributors;

654 (ii) an individual who represents local beer manufacturers;

655 (iii) an individual who represents national brewers;

656 (iv) an individual who represents retail merchants in the state; and

657 (v) a community member.

658 (2) (a) The president of the Senate shall designate a member of the Senate appointed
659 under Subsection (1)(a) as a cochair of the workgroup.

660 (b) The speaker of the House of Representatives shall designate a member of the House
661 of Representatives appointed under Subsection (1)(b) as a cochair of the workgroup.

662 (3) (a) A majority of the members of the workgroup constitutes a quorum.

663 (b) The action of a majority of a quorum constitutes an action of the workgroup.

664 (4) (a) Salaries and expenses of the members of the workgroup who are legislators
665 shall be paid in accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Chapter 3,
666 Legislator Compensation.

667 (b) A member of the workgroup who is not a legislator:

668 (i) may not receive compensation for the member's work associated with the
669 workgroup; and

670 (ii) may receive per diem and reimbursement for travel expenses incurred as a member
671 of the workgroup at the rates established by the Division of Finance under Sections [63A-3-106](#)
672 and [63A-3-107](#).

673 (5) The department shall provide staff support to the workgroup.

- 674 (6) The workgroup shall study the following issues:
- 675 (a) before October 31, 2019, the expected impact of increasing the allowable alcohol
- 676 content of beer on the following:
- 677 (i) the availability and price of beer in the state, including rural areas within the state;
- 678 (ii) fiscal matters, including tax revenue, local jobs, and industry;
- 679 (iii) societal costs and harms, including impaired driving, underage drinking, and
- 680 alcohol addiction;
- 681 (b) after October 31, 2019, the actual impacts of increasing the allowable alcohol
- 682 content of beer on the items described in Subsections (6)(a)(i) through (iii);
- 683 (c) whether changes to beer distributor competition in the state could impact beer
- 684 availability; and
- 685 (d) beer retail practices, including offering discount prices.

- 686 (7) On or before October 31, 2019, and on or before October 31, 2020, the workgroup
- 687 shall provide an annual report on the workgroup's study under Subsection (6) to:
- 688 (a) the Legislative Management Committee; and
- 689 (b) the Business and Labor Interim Committee.

690 Section 3. Section **59-15-101** is amended to read:

691 **59-15-101. Tax basis -- Rate.**

- 692 (1) (a) A tax is imposed at the rate specified in Subsection (1)(b) on all beer, as defined
- 693 in Section [32B-1-102](#), that is imported or manufactured for sale, use, or distribution in this
- 694 state.
- 695 (b) The tax described in Subsection (1)(a) shall be imposed at a rate of:
- 696 (i) \$11 per 31-gallon barrel for beer imported or manufactured:
- 697 (A) before July 1, 2003; and
- 698 (B) for sale, use, or distribution in this state; and
- 699 (ii) ~~[\$12.80]~~ \$13.10 per 31-gallon barrel for beer imported or manufactured:
- 700 (A) on or after July 1, 2003; and
- 701 (B) for sale, use, or distribution in this state.

- 702 (c) The tax imposed under this Subsection (1):
- 703 (i) shall be imposed at a proportionate rate for:
- 704 (A) any quantity of beer other than a 31-gallon barrel; or
- 705 (B) the fractional parts of a 31-gallon barrel; and
- 706 (ii) may not be imposed more than once on the same beer.
- 707 (2) A tax may not be imposed on beer:
- 708 (a) sold to the United States and its agencies; or
- 709 (b) (i) manufactured or imported for sale, use, or distribution outside the state; and
- 710 (ii) exported from the state.

711 Section 4. Section **59-15-109** is amended to read:

712 **59-15-109. Tax money to be paid to state treasurer.**

713 (1) [~~Taxes~~] Except as provided in Subsection (2), taxes collected under this chapter
714 shall be paid by the commission to the state treasurer daily for deposit as follows:

715 (a) the greater of the following shall be deposited into the Alcoholic Beverage
716 Enforcement and Treatment Restricted Account created in Section [32B-2-403](#):

- 717 (i) an amount calculated by:
- 718 (A) determining an amount equal to 40% of the revenue collected for the fiscal year
- 719 two years preceding the fiscal year for which the deposit is made; and
- 720 (B) subtracting \$30,000 from the amount determined under Subsection (1)(a)(i)(A); or
- 721 (ii) \$4,350,000; and
- 722 (b) the revenue collected in excess of the amount deposited in accordance with
- 723 Subsection (1)(a) shall be deposited into the General Fund.

724 (2) For a fiscal year beginning on or after July 1, 2020, the state treasurer shall annually
725 deposit into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in
726 Section [32B-2-403](#) an amount equal to the amount of revenue generated in the current fiscal
727 year by the portion of the tax imposed under Section [59-15-101](#) that exceeds:

- 728 (a) \$12.80 per 31-gallon barrel for beer imported or manufactured:
- 729 (i) on or after July 1, 2003; and

- 730 (ii) for sale, use, or distribution in this state; and
- 731 (b) a proportionate rate to the rate described in Subsection (2)(a) for:
- 732 (i) any quantity of beer other than a 31-gallon barrel; or
- 733 (ii) the fractional parts of a 31-gallon barrel.
- 734 ~~[(2)]~~ (3) (a) The commission shall notify the entities described in Subsection ~~[(2)]~~
- 735 (3)(b) not later than the September 1 preceding the fiscal year of the deposit of:
- 736 (i) the amount of the proceeds of the beer excise tax collected in accordance with this
- 737 section for the fiscal year two years preceding the fiscal year of deposit; and
- 738 (ii) an amount equal to 40% of the amount listed in Subsection ~~[(2)]~~ (3)(a)(i).
- 739 (b) The notification required by Subsection ~~[(2)]~~ (3)(a) shall be sent to:
- 740 (i) the Governor's Office of Management and Budget; and
- 741 (ii) the Legislative Fiscal Analyst.
- 742 Section 5. Section **63I-2-232** is amended to read:
- 743 **63I-2-232. Repeal dates -- Title 32B.**
- 744 (1) Subsection **32B-1-102(7)** is repealed July 1, 2022.
- 745 (2) Subsection **32B-1-407(3)(d)** is repealed July 1, 2022.
- 746 ~~[(3) Subsection **32B-1-604(4)** is repealed June 1, 2018.]~~
- 747 (3) Section **32B-2-211.1** is repealed November 1, 2020.
- 748 (4) Subsections **32B-6-202(3)** and (4) are repealed July 1, 2022.
- 749 (5) Section **32B-6-205** is repealed July 1, 2022.
- 750 (6) Subsection **32B-6-205.2(15)** is repealed July 1, 2022.
- 751 (7) Section **32B-6-205.3** is repealed July 1, 2022.
- 752 (8) Subsections **32B-6-302(3)** and (4) are repealed July 1, 2022.
- 753 (9) Section **32B-6-305** is repealed July 1, 2022.
- 754 (10) Subsection **32B-6-305.2(15)** is repealed July 1, 2022.
- 755 (11) Section **32B-6-305.3** is repealed July 1, 2022.
- 756 (12) Section **32B-6-404.1** is repealed July 1, 2022.
- 757 (13) Section **32B-6-409** is repealed July 1, 2022.

- 758 (14) Section [32B-6-605.1](#) is repealed July 1, 2019.
- 759 (15) Subsection [32B-6-703\(2\)\(e\)\(iv\)](#) is repealed July 1, 2022.
- 760 (16) Subsections [32B-6-902\(1\)\(c\)](#), [\(1\)\(d\)](#), and [\(2\)](#) are repealed July 1, 2022.
- 761 (17) Section [32B-6-905](#) is repealed July 1, 2022.
- 762 (18) Subsection [32B-6-905.1\(16\)](#) is repealed July 1, 2022.
- 763 (19) Section [32B-6-905.2](#) is repealed July 1, 2022.

764 [~~(20) Section [32B-7-303](#) is repealed March 1, 2019.~~]

765 [~~(21) Section [32B-7-304](#) is repealed March 1, 2019.~~]

766 [~~(22)~~] (20) Subsection [32B-8-402\(1\)\(b\)](#) is repealed July 1, 2022.

767 Section 6. **Effective date.**

768 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2019.

769 (2) The actions affecting the following sections take effect on November 1, 2019:

770 (a) Section [32B-1-102](#);

771 (b) Section [59-15-101](#); and

772 (c) Section [59-15-109](#).

773 Section 7. **Coordinating S.B. 132 with H.B. 453 -- Substantive and technical**
774 **amendments.**

775 If this S.B. 132 and H.B. 453, Alcohol Amendments, both pass and become law, it is
776 the intent of the Legislature that the Office of Legislative Research and General Counsel shall
777 on November 1, 2019, prepare the Utah Code database for publication by amending the
778 definition of heavy beer in Subsection [32B-1-102\(49\)](#) to read:

779 "(49) (a) "Heavy beer" means a product that:

780 (i) contains more than:

781 (A) 5% alcohol by volume, less a tolerance of 0.18%; or

782 (B) 4% alcohol by weight, less a tolerance of 0.15%; and

783 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

784 (b) "Heavy beer" is considered liquor for the purposes of this title."